STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of the Estate of HELEN E. CAREY,
Deceased.

JANICE R. YEAGER, AUDREY SANBORN, DEANNA ERDMAN, MARILYN KOKOCHAK, and SALLY STUS,

Petitioners-Appellants,

v

WILFRED A. CAREY, Personal Representative of the Estate of HELEN E. CAREY, Deceased,

Respondent-Appellee.

UNPUBLISHED
April 11, 1997

No. 194635
Gladwin Probate Court
LC No. 94-011211-SE

Before: Saad, P.J., and Neff and Jansen, JJ.

PER CURIAM.

Petitioners are the decedent's five daughters who appeal by right from an order interpreting the provisions of the decedent's will to mean that respondent would take the decedent's real property. We affirm.

The decedent was survived by six adult children. Petitioners consented to the appointment of the decedent's only son, Wilfred A. Carey, as personal representative of the decedent's estate. The decedent's one-page holographic will was thereafter admitted to probate. The decedent's entire estate consisted of a lakefront cottage (hereinafter the "Property") and its contents.

The single dispositive provision of decedent's will was as follows:

* * *

The property
Lot 16 Billings Township Gladwin
County Mich to son Wilfred

Use it as if I were there

* * *

Petitioners argue that, by following the dispositive provision of her will with the directive that she did ("Use it as if I were there"), decedent actually intended that a trustee role be imposed upon Wilfred with regard to the Property for the benefit of all six of decedent's children. Petitioners insist that the decedent would not have expressed love and affection for all her children in her will and then "disinherited" them, and that, given that all six children shared use of the Property when the decedent was alive, the decedent's directive expressed her intent that such an arrangement continue.

However, given the dearth of independent evidence regarding decedent's alleged intent to impose a trusteeship on Wilfred, we cannot say that the probate court clearly erred when it determined that decedent intended Wilfred to receive the Property outright (and, by negative implication, that decedent did not intend that a trusteeship be imposed upon Wilfred regarding the Property). *In re Woodworth Trust*, 196 Mich App 326, 328; 492 NW2d 818 (1992).

Given our resolution of this issue, we need not address the remaining issue urged by petitioners of whether the decedent's estate should be declared intestate property owing to the vagueness of, or impossibility of carrying out, the trust.

Affirmed. Respondent, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Henry William Saad
/s/ Janet T. Neff
/s/ Kathleen Jansen